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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE CALIFORNIA BAIL BOND
ANTITRUST LITIGATION

Case No. 4:19-cv-00717-JST

CLASS ACTION

This Document Relates To:

**ADMINISTRATIVE MOTION TO
CORRECT THE DECLARATION OF
DARRYL ANDERSON (DKT. 285)**

ALL ACTIONS

I. INTRODUCTION

Pursuant to Local Rule 7-11, Plaintiffs hereby move to correct Exhibits 4, 6, 8, and 10 to the Declaration of Darryl Anderson (Dkt No. 285). Those Exhibits, submitted by Defendants in support of their Joint Motion to Dismiss Plaintiffs' Third Consolidated Amended Complaint (Dkt. No. 284), contain material errors. Immediately after confirming these errors with their litigation support professionals, Plaintiffs alerted Defendants, and asked if there were any objections to Plaintiffs filing the corrected and completed documents. Defendants confirmed they do not object. *See* Decl. of Dean M. Harvey ¶¶ 7-8, submitted herewith.

II. CORRECTIONS TO THE ANDERSON DECLARATION

Exhibit 4. Defendants purport to attach as Exhibit 4 a “true and correct copy of a document beginning at bates label GSBA000002210, which is a document produced by nonparty Golden State Bail Agents Association in this litigation.” Dkt. No. 285 ¶ 5. Defendants continue: “In paragraphs 143 and 144 of the TCAC, Plaintiffs describe and quote from a March 18, 2009 email from Topo Padilla as a basis for their allegations. The document attached hereto at Exhibit 4 is the document referenced in paragraphs 143 and 144 of the TCAC.” *Id.*

However, Defendants have since confirmed that Exhibit 4 is not, in fact, a copy of the email produced at GSBA000002210 or referenced in paragraphs 143 and 144 of the TCAC, but instead a different copy of that email, which appends another document that is neither an attachment to that email nor part of GSBA000002210. When Plaintiffs asked Defendants about the alteration to GSBA000002210, Defendants acknowledged that the improper attachment comes from a separate production, but did not offer any explanation for its inclusion in Exhibit 4. Harvey Decl. ¶ 8. To avoid confusion, Exhibit 4 should be disregarded, and the Court should rely instead on the actual true and correct copy of GSBA000002210, which is filed herewith. *See* Harvey Decl., Ex. A.

Exhibit 6. Defendants purport to attach as Exhibit 6 a “true and correct copy of a document beginning at bates label CBAA000008537, which is a document produced by nonparty California Bail Agents Association in this litigation.” Dkt. No. 285 ¶ 7. Defendants continue: “In paragraph 161 of the TCAC, Plaintiffs describe and quote from what they characterize as

1 ‘recommended standardized forms for California Bail Agents.’ The document attached hereto at
 2 Exhibit 6 consists of the ‘2013 Standardize Forms” that are quoted and referenced in paragraph
 3 161 of the TCAC.” *Id.*

4 However, Exhibit 6 is not a true and correct copy of CBAA000008537. This is clear from
 5 the face of the document, which includes not the typeface stamped Bates Number on the true
 6 document produced to Plaintiffs, but a handwritten “8357” in blue ink. Plaintiffs also discovered
 7 that Exhibit 6 omits pages 10-18 of the cited document, and also cuts off portions of the bottom of
 8 the pages that it does include. The complete document is filed herewith. *See* Harvey Decl., Ex.
 9 B. This omission is material, because the TCAC references evidence contained in the missing
 10 pages. Paragraph 161 of the TCAC alleges as follows:

11 Additionally, in 2013, Defendants including Accredited, AIA, ASC,
 12 Lexington, Lexion, Sun, Financial Casualty, and Williamsburg were
 13 members of CBAA’s “Bail Bond Project”, which resulted in
 14 recommended standardized forms for California Bail Agents. Draft
 15 forms dated 2013 state that premium fees are “typically ten percent
 16 of the amount of bond.” The forms make no reference to rebates, nor
 provide any space in which to input a rebate. The California addenda
 to the draft standardized forms assert: “This addendum shall be
 attached to every Bail Bond Application and Agreement entered into
 in the State of California.”

17 The tenth page of the complete document (CBAA000008546), omitted from Exhibit 6 of the
 18 Anderson Declaration, is entitled: “Bail Bond Premium Receipt and Statement of Charges.” The
 19 bottom of the document identifies it as “Bail Standard Form No. 3,” and contains a copyright
 20 notification from “Lexington National Insurance Corporation, et al.” The form has spaces for
 21 “Bail Bond Premium” and “Total Charges” defined as “premium plus any itemized expenses.”
 22 As Plaintiffs allege in Paragraph 161 of the TCAC, the “Standard Form” makes no reference to
 23 rebates, and provides no space in which to input a rebate. Further, by defining “Total Charges” as
 24 “premium plus any itemized expenses,” the form excludes the possibility of a rebate, since any
 25 rebate would lower “Total Charges” below “premium plus itemized expenses.”

26 In addition, the last page of the complete document (CBAA000008554), also omitted
 27 from Exhibit 6 of the Anderson Declaration, is entitled “California Addendum to Indemnitor
 28 Application and Agreement.” The bottom of the document identifies it as “CA-Bail Form No. 2.”

1 As Plaintiffs allege in Paragraph 161 of the TCAC, Paragraph 6 of the form requires that the form
2 be attached to every bail bond application and agreement entered into in the State of California.

3 When Plaintiffs asked Defendants about these omissions, Defendants responded that their
4 mistaken filing was the “result of an oversight.” Harvey Decl. ¶ 7. Exhibit 6 should be
5 disregarded, and the Court should instead rely on the actual true and correct copy of
6 CBAA000008546, filed herewith. *See* Harvey Decl., Ex. B.

7 ***Exhibit 8.*** Defendants purport to attach as Exhibit 8 a “true and correct copy of a
8 document bates labeled SFAA000387-SFAA000390, which is a document produced by nonparty
9 Surety & Fidelity Association of America in this litigation.” Dkt. No. 285 ¶ 9. Defendants
10 continue: “In paragraph 123 of the TCAC, Plaintiffs describe and quote from what it alleges to
11 be ‘pricing reports’ prepared by the Bail Bond Advisory Committee of the Surety and Fidelity
12 Association of America. The document attached hereto at Exhibit 8 is a June 17, 2019 email
13 from Devin Girardi of SFAA, with an attachment consisting of the 2018 Bail Bond Supplement,
14 which is an example of the ‘pricing reports’ that contain the quotations described and quoted from
15 in paragraph 123 of the TCAC.” *Id.*

16 However, Defendants have since acknowledged that Exhibit 8 is only an *excerpt* of the
17 relevant document produced in discovery, and that Defendants excluded the remaining pages of
18 the document based on Defendants’ unilateral determination that they “do not believe they have
19 any bearing on the references in the TAC at paragraph 123.” Harvey Decl. ¶ 8. Plaintiffs believe
20 that determination is for the Court, and that the document should be submitted in its entirety. The
21 complete document is filed herewith. *See* Harvey Decl., Ex. C.

22 ***Exhibit 10.*** Defendants purport to attach as Exhibit 10 a “true and correct copy of a
23 document bates labeled CDI_000000262-CDI_000000265, which is a document produced by
24 nonparty California Department of Insurance in this litigation.” Dkt. No. 285 ¶ 11. Defendants
25 continue: “In paragraph 129 of the TCAC, Plaintiffs describe and quote from a document that it
26 alleges reflected ‘a failed attempt on April 13, 2010 to persuade CDI to require a ‘fixed 10% bond
27 rate.’” The document attached hereto at Exhibit 10 consists of meeting notes from the CDI Bail ad
28 hoc committee, which includes the quotation found in paragraph 129 of the TCAC.” *Id.*

As with Exhibit 8, however, Defendants have since acknowledged that Exhibit 10 is only an *excerpt* of the relevant document produced in discovery. The complete document is filed herewith. *See* Harvey Decl., Ex. D.

III. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court disregard Exhibits 4, 6, 8, and 10 to the Anderson Declaration, and instead rely upon Exhibits A, B, C, and D, respectively, to the Harvey Declaration.

Dated: October 26, 2022

Respectfully submitted,

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